IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R.

CHUNNI LAL. V. THE STATE OF RAJASTHAN AND OTHERS.

S.B. CIVIL WRIT PETITION NO.6220/2005,
under Article 226 of the Constitution of India.

DATE OF ORDER: :24.10.2005

PRESENT.

HON'BLE MR. JUSTICE R.P.VYAS

Mr.H.S.Sidhu, for Petitioner.

BY THE COURT:

REPORTABLE.

By the instant petition, the petitioner has sought to quash and set aside the order dated 15.10.2005 (Annexure P-1), passed by the Deputy Conservator of Forest, Samajik Vaniki, Sriganganagar.

Brief facts, giving rise to the instant petition, are that while the petitioner was posted as Forester in Range Garsana, a criminal case under Sections 7, 13 (1) (d) and 13 (2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'the Act, 1988') was registered against him, in which he was

convicted by the order dated 16.9.2002 passed by the Court of Anti-Corruption Cases, Bikaner. Against the said order of conviction, the petitioner preferred S.B. Criminal Appeal No.545/2000 (Chunni Lal v. The State of Rajasthan) before this Court. In the said appeal, the substantive sentence was suspended by the High Court vide order dated 26.9.2002. That criminal appeal is stil pending. Despite the sentence awarded to the petitioner, he was allowed to continue in service by the Department. It is further averred by the petitioner in the instant petition that, now, vide order dated 15.10.2005, the petitioner has been removed from the service on the ground that he has been convicted in the criminal case by the Court of Anti-Corruption Cases, Bikaner. It is also averred by the petitioner in the instant that earlier, two employees, namely, Shri Suresh Kumar, LDC and Shri Badhriprasad, Forest Guard, were convicted by the Criminal Court under the provisions of the Prevent of Corruption Act. They have also filed appeal before the High Court against the sentence awarded by the Court of Anti-Corruption Cases, Bikaner. Their appeal is also pending. Both these employees are still working in the department, but, vide order dated 15.10.2005 (Annexure P-1), the petitioner has been removed from service.

Being aggrieved by the order dated 15.10.2005 (Annexure P-1), the petitioner has preferred the instant petition.

It is submitted by the learned counsel for the petitioner that vide order dated 16.9.2000, the petitioner was convicted, against which he filed the aforesaid criminal appeal before the High Court, in which sentence was suspended vide order dated 26.9.2000. That appeal is still pending, but, now, after five years, the petitioner has been removed from service by the respondents vide Annexure P-1 in an arbitrary manner.

It is further submitted by the learned counsel for the petitioner that once the respondents have considered the matter and decided not to take any action against the petitioner for five years, then now it is not open for them to remove him from service. According to the learned counsel, the respondents have waived the right to remove the petitioner from service after five years.

It is also submitted by the learned counsel for the petitioner that the aforesaid similarly situated persons are still continuously working in the Department, whereas the petitioner has only been removed from service, which is discriminatory and against the mandate of Article 14 of the Constitution of India.

Heard learned counsel for the petitioner.